

**Memorandum of Decision Number: 01-20200301
Individual Income Tax
For the Year 2019**

NOTICE: Under IC § 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue. The "Holding" section of this document is provided for the Memorandum of Decision.

HOLDING

Individual provided sufficient documentation to establish that he had no sources of income in Indiana during 2019.

ISSUE

I. Individual Income Tax - Income Adjustment.

Authority: IC § 6-8.1-5-1; IC § 6-3-2-2; IC § 6-3-2-1; *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579 (Ind. 2014); *Lafayette Square Amoco, Inc. v. Indiana Dept. of State Revenue*, 867 N.E.2d 289 (Ind. Tax Ct. 2007); *Indiana Dept. of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 2012).

Taxpayer protests the Department's income adjustment.

STATEMENT OF FACTS

Taxpayer is a former resident of Indiana and claimed to be a resident of Tennessee during the year in question. As the result of a records comparison with the Internal Revenue Service ("IRS"), the Indiana Department of Revenue ("Department") reduced Taxpayer's refund. Taxpayer protested that reduction and declined his option to have a hearing. This Memorandum of Decision results. Additional facts will be provided as necessary.

I. Individual Income Tax -Income Adjustment.

DISCUSSION

Taxpayer received a letter from the Department which explained that the Department reduced Taxpayer's refund because of a records comparison with the IRS. The reduction in the amount of refund approved therefore constituted an assessment of additional income tax. Taxpayer claims that he was a resident of Tennessee during the year in protest at the request of his employer. Taxpayer protests because he had Indiana income tax withheld and remitted by his Indiana-based employer. As a part of the protest Taxpayer provided two Tennessee apartment lease agreements plus a letter from his employer certifying that he is living and working in Tennessee.

As a threshold issue, it is Taxpayer's responsibility to establish that the existing tax assessment is incorrect. As stated in IC § 6-8.1-5-1(c), "The notice of proposed assessment is prima facie evidence that the department's claim for the unpaid tax is valid, including during an action appealed to the tax court under this chapter. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made." *Indiana Dept. of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463, 466 (Ind. 2012); *Lafayette Square Amoco, Inc. v. Indiana Dept. of State Revenue*, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007). Consequently, a taxpayer is required to provide documentation explaining and supporting his or her challenge that the Department's position is wrong. Further, "[W]hen [courts] examine a statute that an agency is 'charged with enforcing. . .[courts] defer to the agency's reasonable interpretation of [the] statute even over an equally reasonable interpretation by another party.'" *Dept. of State Revenue v. Caterpillar, Inc.*, 15 N.E.3d 579, 583 (Ind. 2014). Thus, all interpretations of Indiana tax law contained within this decision shall be entitled to deference.

Indiana imposes a tax on adjusted gross income derived from sources within Indiana. IC § 6-3-2-1(b). IC § 6-3-2-2 explains the meaning of income derived from sources within Indiana:

- (a) With regard to corporations and nonresident persons, "adjusted gross income derived from sources within Indiana", for the purposes of this article, shall mean and include:

- (1) income from real or tangible personal property located in this state;
- (2) income from doing business in this state;
- (3) income from a trade or profession conducted in this state;
- (4) compensation for labor or services rendered within this state; and
- (5) income from stocks, bonds, notes, bank deposits, patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, and other intangible personal property to the extent that the income is apportioned to Indiana under this section or if the income is allocated to Indiana or considered to be derived from sources within Indiana under this section.

Taxpayer provided verification that he in fact worked and resided in Tennessee in 2019. He does own property in Indiana, but it does not generate income. Taxpayer provided sufficient explanation that he did not have Indiana income as defined under IC § 6-3-2-2. He has no other sources of Indiana income. Taxpayer has met the burden imposed under IC § 6-8.1-5-1(c) of proving the proposed assessment wrong. Thus, Taxpayer is entitled to a refund.

FINDING

Taxpayer's protest is sustained.

November 3, 2020

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